

FILED

JULY 2, 2008

**KAREN S. MITCHELL
CLERK, U.S. DISTRICT COURT**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JAMAL OMAR NAJM,

Petitioner,

v.

IMMIGRATION AND CUSTOMS,
ENFORCEMENT,

Respondent.

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2:08-CV-0058

REPORT AND RECOMMENDATION TO DISMISS
PETITION FOR A WRIT OF HABEAS CORPUS

On March 25, 2008, petitioner filed with this Court a handwritten petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. By his habeas application, petitioner seeks to “secure his release from the custody of Immigration and Customs Enforcement (ICE).” At the time petitioner filed the instant habeas application he was confined in the Randall County Jail in Randall County, Texas.

On May 14, 2008, petitioner supplemented his handwritten application with a typewritten pleading, asserting additional argument and setting forth case law. This pleading was styled to be filed in the United States District Court for the Northern District of Texas, Abilene Division. A search of the Northern District of Texas electronic case filing system revealed the supplemental petition filed with this Court on May 14, 2008 is identical to a habeas application petitioner filed with the Abilene Division court on February 8, 2008 while petitioner was confined at the Rolling Plains Regional Detention Center. A supplemental pleading filed with the Abilene court on March 26, 2008 is identical to the handwritten pleading filed with this court on March 25, 2008. The habeas action seeking release from ICE custody is currently pending before the Abilene court.

On June 17, 2008, petitioner was ordered to show cause why this case should not be dismissed as duplicative, seeking the same relief as the case pending before the Abilene Division court. On June 25, 2008, petitioner filed a response to the Order to Show Cause wherein he stated, "I want to withdraw my habeas corpus from [the] Amarillo court only," and "I Jamal O. Najm will [stet] like to withdraw my habeas corpus petition from [the] Amarillo, TX court."

Petitioner's habeas corpus action pending in this Court is duplicative of the habeas corpus action pending in the Abilene court. Consequently, it is the opinion of the undersigned that petitioner's request to withdraw his petition should be granted, and that the instant petition for a writ of habeas corpus be dismissed.

RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that the petition for a writ of habeas corpus filed by petitioner JAMAL OMAR NAJM be DISMISSED without prejudice. Petitioner is warned that a dismissal without prejudice will not guarantee that any subsequent petition will not be time barred.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a file-marked copy of this Report and Recommendation to petitioner by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 2nd day of July 2008.


CLINTON E. AVERITTE
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the “entered” date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(B), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(D). When service is made by mail or electronic means, three (3) days are added after the prescribed period. Fed. R. Civ. P. 6(e). Therefore, any objections must be **filed on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the “entered” date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled “Objections to the Report and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).